IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Appellate Side

L.P.A. No188 OF 2007

Raosaheb Namdeo Patil Appellant.

vs

Vijayasinha K Deshmukh & ors ..Respondents

Mr K.S.Bapat with Mr.A.H. Fatangase i/b H.G.Wakse for appellant.
Mr.S.D.Patil for respondent Nos.1 to 5.
Mr V.A. Gansal with Mr. A.J. Gade for respondent Nos.6,7,10 and 11.
Ms Smita Gaidhane i/b Mr. A.M. Misat for respondent Nos.8 and 12

CORAM: SWATANTER KUMAR, C.J., &
Dr. D.Y. CHANDRACHUD, J.

Dated: 27th September 2007

P.C.:

In the present appeal the orders dated 22nd August 2007 and 7th September 2007 are impugned. By the order dated 7th September 2007, the learned Single Judge clarified and/or to some extent reviewed the order dated 22nd August 2007, upon filing an application being Civil Application No.2334 of 2007. It is not necessary for us to examine the various contentions raised in any greater length as the learned Single Judge did not go into the question of controversy raised by the parties in relation to the recording and/or withdrawal of the concession in the orders dated 22nd August 2007 and 7th September

2007. If the matter is examined de-hors the concession, probably there is hardly any reason to support the findings recorded by the lower court. The learned counsel for the parties fairly stated that the order under appeal may be set aside and the matter be remanded to the learned Single Judge for fresh adjudication in accordance with law.

Without expressing any opinion on the merits or otherwise of the impugned orders, we set aside the orders dated 7th September 2007 and 22nd August 2007 and remand the matter back to the learned Single Judge for fresh adjudication in accordance with law.

Appeal is disposed off in terms of the above direction leaving the parties to bear their own expenses.

CHIEF JUSTICE

Dr. D.Y.CHANDRACHUD, J.